

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1611

Introduced by Assembly Member Havice

February 26, 1999

An act to amend ~~Sections 17053.49 and 23649~~ *Section 6902.2* of the Revenue and Taxation Code, relating to taxation, *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1611, as amended, Havice. ~~Income and bank and corporation taxes: credits~~ *Sales and use tax: refund in lieu of credit.*

The Personal Income Tax and Bank and Corporation Tax Laws provide for a credit against tax in the amount of 6% of the cost of qualified property, as defined, that is placed into service in this state. The Sales and Use Tax Law allows any person, in lieu of claiming this tax credit, to file a claim for refund of sales and use taxes paid when purchasing the property with respect to which the credit may be claimed. Existing law limits the amount of any refund so obtained to the amount of the credit that could have been used to offset personal income or bank and corporation tax liability.

This bill would instead limit the amount of this sales and use tax refund to the total amount of the credit that would have been allowed under the Personal Income Tax Law or the Bank and Corporation Tax Law, as applicable.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law and the Bank and Corporation Tax Law allow to qualified taxpayers a credit against taxes imposed by those laws in an amount equal to 6% of the amount paid or incurred during the taxable or income year for qualified property that is placed in service in this state. A qualified taxpayer is defined as any taxpayer engaged in those lines of business described in specified code sections of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In general, qualified property is defined as property for use by a qualified taxpayer in those lines of business described in specified code sections of that SIC manual.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 17053.49 of the Revenue and~~
2 *SECTION 1. Section 6902.2 of the Revenue and*
3 *Taxation Code is amended to read:*
4 6902.2. (a) (1) In lieu of claiming the credit allowed
5 by Section 17053.49 or 23649, a person who has paid sales
6 tax reimbursement to a retailer or use tax on a purchase
7 or purchases of property for which a credit may be
8 allowed pursuant to those sections, may file a claim for
9 refund equal to the credit amount that would otherwise
10 be allowed pursuant to those sections. Any claim so filed
11 shall be submitted to the board on a form prescribed by
12 the board, shall be filed no earlier than the date a claim
13 could have been made for a tax credit or carryover of a
14 credit under Section 17053.49 or 23649, whichever is
15 applicable, and shall be for an amount not in excess of the
16 amount of the credit that ~~could have been used to offset~~
17 ~~personal income or bank or corporation tax liability~~
18 *would have been allowed under the applicable credit*
19 *statute.* A claim for refund shall, unless the sale or use of
20 the property is otherwise exempt under this part, be

1 accompanied by proof of payment of the tax to a retailer,
2 including, but not limited to, a copy of an invoice or
3 purchase contract that indicates the following:

4 (A) The date on which the purchase occurred.

5 (B) A description of the property purchased.

6 (C) The price paid for the property.

7 (D) The amount of tax paid with respect to the
8 purchase.

9 (2) In the case of a person who has self-reported use tax
10 to the board, the claim for refund shall also indicate the
11 amount of use tax paid and the period for which that tax
12 was remitted.

13 (3) Any person who claims a refund under this section
14 shall make an irrevocable election to waive the
15 equivalent amount of credit allowed under Section
16 17053.49 or 23649. Any refund claimed under this section
17 shall be in lieu of claiming any credit under Section
18 17053.49 or 23649. Any person electing to file a claim for
19 refund pursuant to this section shall provide a copy of the
20 personal or bank and corporation tax return on which the
21 tax liability was assessed for which the in-lieu refund is
22 being claimed under this section.

23 (b) No interest shall be paid on any refund made
24 pursuant to this section.

25 (c) Notwithstanding Section 6961, the board may
26 recover any refund or part thereof that is erroneously
27 made pursuant to this section. In recovering any
28 erroneous refund made pursuant to this section, the
29 board, in its discretion, may issue a deficiency
30 determination in accordance with Article 2
31 (commencing with Section 6481) or Article 4
32 (commencing with Section 6536) of Chapter 5. Except in
33 the case of fraud, that determination shall be made within
34 three years from the last day of the month following the
35 quarterly period in which the board approved the refund.

36 (d) The board shall provide an annual listing to the
37 Franchise Tax Board, in a form and manner agreed upon
38 by the board and the Franchise Tax Board, of the persons
39 who during the year have claimed a refund of sales or use

1 tax under this section and the amount of the refund issued
2 to each person.

3 (e) Any refund approved by the board pursuant to this
4 section shall be payable from the General Fund.

5 *SEC. 2. This act provides for a tax levy within the*
6 *meaning of Article IV of the Constitution and shall go into*
7 *immediate effect.*

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10 **All matter omitted in this version of the**
11 **bill appears in the bill as introduced in the**
12 **Assembly, February 26, 1999. (JR 11)**
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